

1 UNITED STATES DISTRICT COURT

2 SOUTHERN DISTRICT OF NEW YORK

3

4 FRONTIER AIRLINES, INC.

5 Plaintiff,

6 v. Case No. 1:20-CV-09713-LLS

7 AMCK AVIATION HOLDINGS IRELAND

8 LIMITED, ACCIPITER INVESTMENT 4

9 LIMITED, VERMILLION AVIATION

10 (TWO) LIMITED, WELLS FARGO TRUST

11 COMPANY, N.A., solely in its capacity as

12 OWNER TRUSTEE, and UMB BANK,

13 N.A., solely in its capacity as OWNER

14 TRUSTEE,

15 Defendants.

16

17 VIDEOTAPED DEPOSITION OF MICHAEL MCINERNEY

18 Taken on behalf of the Plaintiff

19

20 March 11, 2022

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1 BE IT REMEMBERED THAT pursuant to the Oregon  
2 Rules of Civil Procedure, the deposition of  
3 MICHAEL MCINERNEY was taken before Julie A. Walter,  
4 Registered Professional Reporter, Certified  
5 Realtime Reporter, Oregon CSR No. 90-0173, on March  
6 11, 2022, commencing at the hour of 2:59 p.m. (GMT)  
7 the proceedings being reported via Zoom  
8 videoconference with all participants appearing  
9 remotely.

10 \* \* \*

11 APPEARANCES

12 LANE POWELL

13 David G. Hosenpud  
14 601 SW Second Avenue, Suite 2100  
15 Portland, Oregon 97204

16 and

17 Aaron Schaer

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21 Counsel for the Plaintiff

1 APPEARANCES CONTINUED:  
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3 CLIFFORD CHANCE US LLP  
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5 Mr. John Alexander  
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7 31 West 52nd Street  
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9 New York, New York 10019  
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11 Counsel for Defendants  
12

13 Also Present:  
14

15 Darcy Deibele - Lane Powell  
16

17 Emily Walter - Videographer  
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1 That way we get a clean record and we're not  
2 talking over each other in the transcript. Will  
3 you do that?

4 A. Yes.

5 Q. Have you reviewed documents that don't have numbers  
6 on them in this case in preparation for your  
7 deposition?

8 A. No.

9 Q. And in the course of reviewing documents, have you  
10 seen what are known as redactions, black spaces in  
11 the documents?

12 A. Yes, I have.

13 Q. Okay. Is it your understanding that that is due  
14 the fact that there is information in those  
15 documents that are not -- that is not related to  
16 Frontier Airlines?

17 A. I would think so, yes.

18 Q. Okay. What's your position with AMCK?

19 A. My position is a contract manager.

20 Q. And how long have you held that role?

21 A. Since 2018, October.

22 Q. And is that your current position today?

23 A. Yes, it is.

24 Q. Okay. And what are your responsibilities as  
25 contract manager?

1 A. My responsibilities would be to invoice the  
2 airlines, collect payments and insurance renewals  
3 and working with letters of credit and general  
4 lease management.

5 Q. Do you prepare any reports in connection with your  
6 duties?

7 A. Yes.

8 Q. What are the reports that you prepare?

9 A. We repair -- or prepare a receivable report on a  
10 daily basis that we send to the company, which  
11 covers receivables, outstanding payments.

12 Q. Any other types of reports?

13 A. And also we do a weekly report that we feed  
14 in -- each department feeds into, including the  
15 contract department.

16 Q. Okay. And is the weekly report also known as the  
17 weekly agenda?

18 A. Yes.

19 Q. All right. And is there a particular category of  
20 that report that you populate through your group?

21 A. Will you repeat --

22 Q. Yes. Is there a particular area of the report that  
23 your group provides the information for?

24 A. Yes.

25 Q. And which would that be?

1 Q. And with respect to those airlines that you had,  
2 was Frontier one of them?

3 A. Yes.

4 Q. And what is your -- what is your typical  
5 interaction with Frontier as part of your duties as  
6 contract manager?

7 A. With Frontier I would issue the airline invoices,  
8 and I would chase for updated insurance renewals,  
9 and if they have a letter of credit and -- I would  
10 chase that if the renewal is coming up.

11 Q. And would you also chase for payments?

12 A. Yes. Apologies. And outstanding payments. I  
13 would also chase for outstanding payment.

14 Q. Okay. And I understand what you're meaning by the  
15 word "chase," but really it's a follow-up, is it  
16 not?

17 A. Yes.

18 Q. And you do that by email?

19 A. Yes.

20 Q. Do you ever do it by phone?

21 A. No.

22 Q. During the onset of the pandemic in approximately  
23 March of 2020, how did you obtain information  
24 concerning rent deferral requests?

25 A. Sorry, David, could you repeat the question,

1 Q. When a deferral request was rejected and it was one  
2 of your airlines, what did you do in connection  
3 with that airline that owed money?  
4 A. Could you repeat the question again, David, please.  
5 Q. Yes. During a deferral request, did you continue  
6 to chase the airlines that you had under your  
7 management for payment?  
8 A. Yes.  
9 Q. With some of your airlines, did you stop chasing  
10 them while the deferral request was pending?  
11 A. I can't recall at that time.  
12 Q. What did your other managers do?  
13 A. Could you be more specific?  
14 Q. Yes. In connection with a pending deferral  
15 request, what did your other contract managers do  
16 with respect to any airline seeking such a deferral  
17 as it relates to payments?  
18 A. I don't --  
19 Q. Did they chase them, or did they --  
20 A. I don't recall. I don't recall what the other  
21 contract managers did.  
22 Q. And you have absolutely no recollection, as you sit  
23 here today under oath, what you did?  
24 A. I would have -- I would have continued chasing  
25 payments at that time.

1 Q. For all of them?

2 A. Yeah.

3 Q. Did you chase payments for Frontier during the time

4 that it sought a deferral request?

5 A. I don't recall.

6 Q. Would we see in emails from you to Frontier if you

7 had?

8 A. Yes.

9 Q. Did you sit in on any specific conversations

10 relating to Frontier Airlines in connection with

11 its deferral request?

12 A. Could you repeat that, please, David.

13 Q. Yes. Did you sit in on any conversations specific

14 to Frontier Airlines with respect to its deferral

15 request?

16 A. I don't recall.

17 Q. Do you recall sitting in on any conversations with

18 any of the airlines in your contract management

19 portfolio related to their deferral request?

20 A. I don't recall.

21 Q. Were you ever in a meeting with Mr. Sheridan or

22 Ms. O'Callaghan in connection with the subject of

23 airline deferral requests?

24 A. I don't recall. No, I don't recall.

25 Q. Let me ask it this way: Other than the weekly

1 A. Yeah. That's what the report says, yeah.

2 Q. And were you aware of any feedback that updated  
3 that as of May 5, 2020?

4 A. Could you repeat that, please.

5 Q. Yes. The information says "No feedback last week."  
6 My question is, were you aware of anything that  
7 would contradict that, that there had been  
8 feedback?

9 A. No, I don't -- don't have -- I don't recall.

10 Q. Okay. We are in the "Contract Management" section,  
11 and I'm on page 30 for that reference, and then I'm  
12 moving to page 31 -- pardon me, 32, and for  
13 Frontier, it shows \$4,787,199.91, 14 times rent.

14 Correct?

15 A. Correct.

16 Q. And the comments are that the "Rent deferral  
17 requested, under review." Is that right?

18 A. Yes.

19 Q. And that's the information that you were provided.  
20 Correct?

21 A. Yeah.

22 Q. In the section relating to finance  
23 activity -- financing activity for Aircraft 1  
24 through 3, it still indicates "All on hold -  
25 Awaiting update on revised delivery timetable, if

1 aircraft that is on the ground, based on your  
2 understanding?

3 A. Could you rephrase that, please.

4 Q. Yes. I'm trying to figure out -- your question is  
5 why is it low on cash? And my question is what did  
6 you mean by AOGs? You said aircraft on the ground  
7 to which there is no lease attached. Do I have it  
8 summarized so far?

9 A. Yeah.

10 Q. And if it is an aircraft on the ground with no  
11 lease attached, has AMCK already purchased that and  
12 is searching for a lessor -- a lessee? Pardon me.

13 A. Yes.

14 Q. Okay. So it's put out the capital for the  
15 aircraft, and there is no rent stream coming back  
16 during that period that it doesn't have a lessee.  
17 Is that right?

18 MR. ALEXANDER: Objection to the form.

19 Q. BY MR. HOSENPUDE: You can answer.

20 A. Yeah, that would -- it would be an aircraft that is  
21 owned by AMCK that is without a lease.

22 Q. Understood. And bankruptcies is self-evident. And  
23 the next entry from Mr. Hunt, its not low on cash,  
24 there's plenty of cash in the bank, its just badly  
25 negative monthly net cashflow go. He then goes on

1 to say, there's 340 million in AMCK's bank ATM.

2 Do you understand what that was reference to?

3 A. Yeah, that AMCK is 340 million in the bank.

4 Q. Got it. And then he goes on to say, "like the  
5 company isn't" -- F'ed explicative, F-U-C-K-E-D --  
6 it has the cash -- "it has cash to" take it  
7 -- "take this issue on the chin." Let me repeat  
8 that.

9 He says, "like the company isn't F-U-C-K-E-D,  
10 it has cash to take this issue on the chin."

11 Did I read that accurately?

12 A. Yes.

13 Q. And what was James Hunt's primary responsibility at  
14 AMCK?

15 A. I don't know. He's an accountant.

16 Q. Okay. So he would know where the cash is.  
17 Correct?

18 A. I can't answer for James.

19 MR. HOSENPUDE: Let's move on to Tab 12, please.

20 (Exhibit 12 marked)

21 MR. ALEXANDER: David, thanks for keeping the  
22 transcript clean.

23 MR. HOSENPUDE: I normally don't.

24 Q. BY MR. HOSENPUDE: Okay. Tab 12 is Raymond  
25 Yu -- strike that.

1 Tab 12 is a March 12, 2020, email from Raymond  
2 Yu to you with a cc to James Hunt, Curley Chan and  
3 Ivy Wu. Where was Raymond Yu situated? With  
4 CK Assets?

5 A. Correct.

6 Q. And what was his position?

7 A. I don't know.

8 Q. This is a report that you are giving to Raymond for  
9 aircraft billing for March 2020, and he has asked  
10 for a list of all invoices that have been issued  
11 with a date March 2020. Do you see that?

12 A. I do.

13 Q. Okay.

14 MR. ALEXANDER: Can I just see the Bates number  
15 of this, please.

16 MR. HOSENPUDE: Yeah. Let me go back. 024608.

17 MR. ALEXANDER: Thanks.

18 Q. BY MR. HOSENPUDE: So this worked its way up the  
19 chain, and you provided the information, it  
20 appears. I'm into the native document. The native  
21 document was stamped AMCK024614, and there are no  
22 additional stamps because it's in native form.

23 And you are listing -- let me see if I can  
24 widen this slightly.

25 You are listing Frontier Airline, and I presume

been payments outstanding for March 30 or March 27 if March 31 is zero?

A. Well, that was just one invoice you showed me.

Q. Right. I'm just showing you how it was produced to me, the document in this litigation, and that's the only invoice at issue that was shown on this document.

A. Okay. So that invoice that you showed me was paid.

Q. All right. But do you think that this type of report would have all invoices that are due?

A. Yes. If there was a number of invoices outstanding, it would be shown where the patches are.

Q. Okay. But I'm telling you these dark patches --

A. Yeah.

Q. -- are all entities not related to Frontier.

A. Correct.

Q. Okay. So if Frontier only had one invoice on this report showing and it was shown as paid in full or zero owed, we can conclude that Frontier had paid all of March 2020. Correct?

A. Correct.

Q. Okay. Thank you.

MR. HOSENPUDE: 17, please.

(Exhibit 16 marked)

1           the invoices and the number of days past due, and  
2           those range from 11 days past due down to 3 days  
3           past due. Is that correct?

4 A. Yeah.

5 Q. And was this a standard report that you would issue  
6 to the global team and CK Assets, or was this just  
7 one that was necessitated by the COVID pandemic?

10 Q. Okay.

11 MR. HOSENPUDD: Let's move on to Tab 20, please.

(Exhibit 19 marked)

13 Q. BY MR. HOSENPUDE: This is a report dated April 27,  
14 2020, from you to the global team and members of  
15 CK Assets, and it's for the April 27 payments due  
16 report, Bates Number AMCK029 -- pardon me,  
17 AMCK020693, and it shows that Frontier  
18 is 3,035,174.75 outstanding, nine times rent with a  
19 designation "Rent deferral requested, under  
20 negotiation." Is that correct?

21 A. Yeah.

22 Q. And that was the information you had obtained  
23 concerning the status of the deferral request. Is  
24 that right?

25 A. I don't remember on this exact date but -- yeah.

1 Q. And again the format is similar to what we've  
2 examined in the other exhibits, and the rent  
3 outstanding in this report dated April 27, 2020, is  
4 ranging from 14 days outstanding down to 1 day  
5 outstanding. Correct?

6 A. Correct.

7 MR. HOSENPUDE: Tab 21, please.

8 (Exhibit 20 marked)

9 Q. BY MR. HOSENPUDE: Tab 21 is an April 28, 2020,  
10 email from you to the global team with a  
11 carbon -- with a cc to representatives of CK Asset,  
12 Bates-numbered 020768, and it shows that Frontier  
13 has amounts outstanding of 3,097,343.31, nine times  
14 rent, "Rent deferral requested, under negotiation."

15 So that figure is higher than the prior report  
16 of April 27, but your notation indicates that a  
17 deferral was requested and it's under negotiation  
18 at this time. Correct?

19 MR. ALEXANDER: Objection to the form.

20 THE WITNESS: That's what it says.

21 Q. BY MR. HOSENPUDE: And you got this information from  
22 somebody who would know that that's the case,  
23 right?

24 A. I don't remember getting that information. It's  
25 three years ago.

1 Q. Right. But typically when you write something to  
2 the global group and to the shareholder, you're  
3 accurate, aren't you?

4 A. You would be, yeah.

5 Q. You are. That's your practice. You want to be  
6 accurate in conveying information, don't you?

7 A. Yeah.

8 Q. Okay. Let's look down to the report which is  
9 similar again in form. Actually, this one doesn't  
10 have an attached report. Let's move on.

11 MR. HOSENPUDE: 22, please.

12 (Exhibit 21 marked)

13 Q. BY MR. HOSENPUDE: April 29, 2020, is the email from  
14 you to the global team and representatives of  
15 CK Assets. It is the April 29, 2020, payments due  
16 report, Bates-number 020824. Here you are showing  
17 Frontier outstanding amounts of 3,429,587.06, ten  
18 times rent. Correct?

19 A. Correct.

20 Q. And the rent deferral requested is under  
21 negotiation. Correct?

22 A. That's what it says, yeah.

23 Q. And that does not contain a attachment.

24 MR. HOSENPUDE: Let's go on to 23, please. No,  
25 we're going to go on to 24.

1 (Exhibit 22 marked)

2 Q. BY MR. HOSENPUDE: Tab 24 is a May 1, 2020, email  
3 from you to Raymond Yu, to AMCK contracts' email  
4 address and to representatives of CK Assets, and it  
5 is the April 2020 monthly payments due report.

6 Correct?

7 A. Yeah. I see a whole part of attachments there.

8 Q. Okay. We'll get to it. I'm going to identify the  
9 Bates number first. 021106.

10 So Raymond Yu is asking you for an update 2020  
11 report -- April 2020. Correct?

12 A. He's asking me for the 2020 report, yeah.

13 Q. Okay.

14 A. 2020, yeah.

15 Q. And then you say, please see the -- please see  
16 attached the MR and LC monthly report.

17 MR is monthly rent? LC is letter of credit?

18 A. No. Maintenance reserve and letter of credit.

19 Q. Thank you for that clarification.

20 We're at the native document AMCK021120, and it  
21 shows -- pardon me -- the MSN numbers and the  
22 amounts due for those numbers as well as the  
23 security deposit on hand. Correct?

24 A. No.

25 Q. This is not the security deposit?

1 A. That's the security department -- deposit, but  
2 that's not -- that's the monthly rental. That's  
3 not what --

4 Q. Yes. The rent invoice total due is the monthly.  
5 The cash security deposit is the amount associated  
6 with that aircraft. Correct?

7 A. Correct.

8 Q. All right. So, for example, MSN 6184 has a rent  
9 invoice of 343,186, and it's got a security deposit  
10 of 686,372. Correct?

11 A. Yeah. That's correct.

12 Q. So that one happens to be double the rent. Is that  
13 right?

14 A. That is what the report says, yeah.

15 Q. Okay. And the same would be true of the MSN 7524  
16 where the amount due is 36 -- 362,630.80 and the  
17 security deposit is 725,261. Correct?

18 A. Yeah. That's what the report says.

19 Q. Okay. And did you prepare this report?

20 A. I don't recall preparing this report on that day.

21 Q. And then there is an entry for MSN 10038, the  
22 aircraft that's renting for 269,525.94 per month.  
23 Correct?

24 A. Yes.

25 Q. All right. You understood that the deferral was

1 still under negotiation at this time. Correct?

2 MR. ALEXANDER: Objection to form.

3 THE WITNESS: That's what the report says.

4 MR. HOSENPUDE: Tab -- Tab 25, please.

5 (Exhibit 23 marked)

6 Q. BY MR. HOSENPUDE: This is a May 1 payments due  
7 report where you are sending it again to the global  
8 team and to representatives of CK Assets, and  
9 you're also attaching a receivables report for  
10 April. You note at Bates page 021143 that Frontier  
11 is outstanding in rent, 4,787,199.91, 14 rents and  
12 that the rent deferral requested is under  
13 negotiation. Correct?

14 A. Correct on the report.

15 Q. And that's the information you had to put into the  
16 report. Is that right?

17 A. I don't recall this exact report, but --

18 Q. But you obtained this information to summarize for  
19 the global team and for CK Assets. Is that right?

20 A. I don't recall putting that -- this exact report  
21 together at this date.

22 Q. Right. But if your name is on it, you likely did  
23 it, didn't you?

24 A. My name is on the email, yeah.

25 Q. And would you be preparing payments due reports

1 typically as part of your job duties for the  
2 aircraft -- for the lessees that you managed?

3 A. Yes. We would prepare the daily receivables  
4 report.

5 Q. Okay. And this section of the native  
6 document, 021146, again where it lists the MSN,  
7 Accipiter Investments Aircraft 4 Limited is the  
8 lessor or the bank account into which the money is  
9 to be deposited, and then we have a listing of all  
10 the dates of the invoices due in April. Is that  
11 correct?

12 A. Yes.

13 Q. And then in addition you have one invoice listed in  
14 May, May 5, 2020. Correct?

15 A. That's what the report says, yeah.

16 Q. Okay. Okay.

17 MR. HOSENPUDE: We can move on. Tab 26, please.

18 (Exhibit 24 marked)

19 Q. BY MR. HOSENPUDE: This is a May 8 payments due  
20 report sent by you to the global team and to  
21 CK Asset representatives, Bates Number 021370. You  
22 are showing at this point the total amount  
23 outstanding is 5,483,871.60, 16 rent, rent deferral  
24 requested and under negotiation. Is that correct?

25 A. That's what the report says.

1 Q. And you populated this report with information you  
2 endeavored to make accurate. Correct?  
3 A. My name is at the top of the email. I sent it.  
4 Q. Yeah. And that's basically what your duties were  
5 is to provide accurate information. Is that right?  
6 A. It's provide this report daily.  
7 Q. Okay. And to provide accurate information.  
8 Correct?  
9 A. It would be to send out this report daily.  
10 Q. My question, though, is were you to provide  
11 accurate information in this report?  
12 A. Yeah. But it would have been -- I wouldn't have  
13 provided inaccurate information.  
14 Q. Fair enough. And on the native document -- let me  
15 ask you this: Based on your experience with  
16 Frontier when you would chase the receivables and  
17 inquire about the status of payments, did Frontier  
18 promptly respond?  
19 A. I don't recall.  
20 Q. Do you have a memory for having to do multiple  
21 efforts at obtaining payment of overdue amounts  
22 with Frontier?  
23 A. I don't have a memory of that. I don't recall  
24 that.  
25 Q. Were there some of your lessees who you had to do

1                   it numerous times for the same amounts outstanding?

2     A.    Yes.

3     Q.    And do you recall Frontier being one of those

4                   lessees?

5     A.    I would have to chase Frontier every so often.

6     Q.    Okay. We're on the days late, days overdue,

7                   section of this report, and they range from 22 days

8                   overdue down to 2 days overdue. Correct?

9     A.    Correct. Yeah.

10    Q.    All right. How did your department and Ciara Flynn

11                   interact? She was the VP of operations. Correct?

12    A.    Correct.

13    Q.    Is she still there at AMCK?

14    A.    Yes.

15    Q.    And what would she be interfacing with your

16                   department about?

17    A.    Could you rephrase the question.

18    Q.    Yeah. Yeah. What would cause her to be

19                   interacting with you?

20    A.    General day-to-day matters.

21    Q.    And were there any specific day-to-day matters that

22                   she -- would cause her interaction with you --

23                   subject areas?

24    A.    In 2020?

25    Q.    Yes.

1 going for April, May and June, it appears, and then  
2 there is a series of payments starting in July. Do  
3 you understand what that is about?

4 MR. ALEXANDER: Objection to the form.

5 THE WITNESS: I don't know this report. I  
6 don't remember compiling this -- or I don't think I  
7 compiled the report, so I can't answer that.

8 Q. BY MR. HOSENPUDE: In your practice, does a red  
9 bracketed number indicate negative?

10 A. It could do.

11 Q. All right. So with respect to the instruction from  
12 Ciara Flynn, did you adhere to that?

13 A. I don't know. I don't recall.

14 Q. But she was applying this to all airlines who had  
15 requested deferrals. Correct?

16 A. That is what the email says.

17 Q. Okay. And do you know if there were any of the  
18 airlines who sought deferrals that were denied?

19 A. I don't recall.

20 Q. If an airline was denied, did you resume chasing  
21 payment?

22 A. I don't recall.

23 Q. We would need to see the communications to other  
24 airlines to determine that. Is that correct?

25 MR. ALEXANDER: Objection to the form.

1 THE WITNESS: Should I still answer?

2 Q. BY MR. HOSENPUDE: Yeah. You can still answer, and  
3 let me -- I'll strike that. I'm going to rephrase.

4 Once a deferral was denied, if you did chase  
5 the airline whose deferral was denied, the only way  
6 we would know that is to see your emails to that  
7 airline. Is that correct?

8 MR. ALEXANDER: Objection to the form.

9 Q. BY MR. HOSENPUDE: You can answer.

10 A. That would be standard practice I would think,  
11 yeah.

12 Q. Okay. Were you ever a participant in weekly  
13 opportunities calls?

14 A. I don't recall.

15 Q. Does that seem -- does that strike any bells with  
16 you, or is it simply you don't know one way or  
17 another?

18 A. Not at this moment. It doesn't strike any bells in  
19 me.

20 Q. Okay. And you're still in contracts, right?

21 A. Correct.

22 Q. And do you participate in weekly opportunity calls  
23 to this date?

24 A. No. I don't -- I don't recall any weekly  
25 opportunities calls.

is attached to your email of the 24th. Is that right?

A. Yes.

Q. Okay.

A. 21st. The attached invoice was due for payment on the 21st.

Q. Yes. It was due on the 21st, and your email was the 24th. Correct?

A. Looks like it, yeah.

Q. Okay. Are you aware of sending any such emails

during the time frame of March through June 2020 to  
Frontier?

A. I don't recall sending emails to Frontier.

Q. All right.

MR. HOSENPUDD: Let's look at Tab 43, please.

(Exhibit 29 marked)

Q. BY MR. HOSENPUDE: This is another series of emails to Frontier, inquiring about payment. The first is June 29, 2020, and it is Bates-marked 0000167, Frontier Bates, and it attaches an invoice that is referenced in the email. Is that correct?

A. I didn't see the reference in the email.

Q. All right. Fair enough. I moved too quickly.

It's an email from you to fleet administrat

It's an email from you to fleet administration  
at Frontier, Sharath, Robert Fanning, attaching

1 invoices and inquiring whether -- strike that.

2 That's where it's confusing.

3 A. So 19RD003118, yeah.

4 Q. Yes. So it's a June 29, 2020, email that is  
5 referencing an invoice issued November 26, 2019.

6 Is that right?

7 A. Yeah.

8 Q. And this fits the pattern that you've described --

9 A. No. No. Sorry. No. No, that's -- sorry. I  
10 misspoke there.

11 I can't tell from this when the invoice was  
12 overdue, so that original email would have been the  
13 batch of invoices that were sent to Frontier.

14 Q. I understand.

15 A. On the 26th. Yeah.

16 Q. So this may fit the pattern of sending six months'  
17 worth of invoices on a certain day, right?

18 MR. ALEXANDER: Objection to the form.

19 THE WITNESS: Yeah, I don't know. I can't  
20 answer that.

21 Q. BY MR. HOSENPUDE: Okay. Well, let's look at the  
22 invoice itself and you can hopefully answer that  
23 question. This is the invoice that was attached to  
24 your inquiry.

25 A. Correct.

1 Q. It's the same MSN number. Correct?

2 A. Yeah.

3 Q. And it's got an invoice date of November 25, 2019,

4 and a due date of June 26, 2020?

5 A. Yeah.

6 Q. So would that make sense that this accompanied an

7 original email back in November 2019?

8 A. It looks like it.

9 Q. Okay. This is another email from you, dated

10 July 6, 2020, to Avril and Sharath inquiring about

11 an invoice that was due for payment on Thursday,

12 July 2, 2020. Is that right?

13 A. Yeah, it looks like it.

14 MR. ALEXANDER: David, is this another

15 compilation of documents?

16 MR. HOSENPUDE: It is.

17 Why don't you send Jack Exhibit -- Tab 43.

18 MR. ALEXANDER: Thank you.

19 Q. BY MR. HOSENPUDE: And then the email from Avril to

20 Sharath -- pardon me, from you to Avril and Sharath

21 accompanies Avril's earlier email sending the

22 invoices for July as well as August invoices. Is

23 that right?

24 A. Looks like it.

25 Q. And a communication came back from Sharath saying,

1 "Please send over the invoice for MSN 9068 for  
2 June. Going forward, kindly send over the invoices  
3 compiled for the entire month for all aircraft."  
4 Did I read that accurately?

5 A. I think that -- I think that email might have come  
6 in before Avril's email. I think Avril's email was  
7 in response to that.

8 Q. Okay. This email chain seems to incorporate  
9 several different emails inquiring about the due  
10 date of invoices. Your email starting on July 6,  
11 2020, has Bates Number FRONTIER0001003 followed by  
12 Bates Number -- last four digits -- 1004 and 1005.  
13 It appears to be an ongoing communication at  
14 various points involving the subject of past due  
15 invoices. Is that right?

16 MR. ALEXANDER: Objection to the form.

17 THE WITNESS: Could be. I can't answer that  
18 for sure. I didn't read each line.

19 Q. BY MR. HOSENPUDE: Okay. Let's go back so you can  
20 answer it.

21 So the starting point of that document that has  
22 the same Bates numbers in sequence is January 20,  
23 2020, where Avril is sending to you and Frontier a  
24 notice saying we haven't received Friday,  
25 January 17, payment.

1 A. Looks like it.

2 Q. And then it goes up a chain to a request for having

3 the invoice for MSN 9068 and then up a chain to

4 reflecting invoices due on July 31 and a comment

5 from Avril about that as well as August invoices.

6 A. Yeah.

7 Q. And then it starts with your invoice to Sharath and

8 Avril, saying hope you had a nice 4th. The

9 attached invoice was due for payment on July 2.

10 Did I capture that accurately?

11 A. Yeah, you did.

12 Q. Okay. And if we go to the invoice to see if it is

13 attached, it looks to be an invoice for

14 Asset 08239, MSN 08239, payment due date July 2,

15 2020. Correct?

16 A. Looks about right.

17 Q. Okay. So that ties to that exchange. Is that

18 right?

19 A. Yeah.

20 Q. Okay. And the next invoice is one dated July 20,

21 2020, where you're indicating that an invoice has

22 been outstanding since Friday -- since Friday,

23 July 17. Correct?

24 A. Looks like it.

25 Q. And we'll skip over the original transmission

1 because it looks like it's a continuation of a  
2 discussion that we've already been through with  
3 different invoices, but it attaches the invoice  
4 for 09068, payment due date July 17, 2020, which  
5 ties to your invoice. Correct -- pardon me, which  
6 ties to your email. Correct?

7 A. Looks like it.

8 Q. Okay. This is a repeat of that email, and the  
9 repeat is Bates Number 0002121. I'll pass by that.  
10 That is the same invoice that we've already  
11 referred to, the July 17, 2020, invoice for  
12 MSN 9068. Correct?

13 A. Yes.

14 Q. Now we are looking at a September 8, 2020, email  
15 from you to the Frontier team, Dovi and Sharath,  
16 indicating that the attached invoice was due for  
17 payment on Friday, September 4, asking for an  
18 update, and you attach the invoice in question  
19 showing payment due date September 4, 2020.

20 Correct?

21 A. That's on the email.

22 Q. It's also in the invoice. Correct?

23 A. Correct.

24 Q. Okay. Were you instructed to not communicate with  
25 Frontier about outstanding invoices during the

1 period of March 2020 through June 2020?

2 A. I don't recall. I don't remember.

3 Q. Could you have been instructed to not do so?

4 MR. ALEXANDER: Objection to the form.

5 THE WITNESS: Yeah, I don't know.

6 Q. BY MR. HOSENPUDE: You were communicating with other  
7 airlines to inquire about payments, weren't you?

8 A. I don't recall at that time.

9 MR. HOSENPUDE: Let's look at Tab 52, please.

10 (Exhibit 30 marked)

11 MR. HOSENPUDE: Let's get this a little larger  
12 so you can see it.

13 Q. BY MR. HOSENPUDE: So let's just start with this  
14 receivable report email exchange, and I'll start at  
15 the bottom and work my way up.

16 So it starts with a receivables report from  
17 Avril going to the global team and contracts. Are  
18 you contained -- is your email summarized within a  
19 contracts@amck.aero email address?

20 A. Yes.

21 Q. Okay. So you received this, and then as we scroll  
22 up, Graham Cooley is writing, "Avril," and then  
23 we've got blacked-out information because it  
24 relates to another airline or airlines, and we'll  
25 just leave it at that.

1           But Graham Cooley is the vice president of  
2           commercial?

3     A.    That's what it says there, yeah.

4     Q.    And is commercial have contract management within  
5           it?

6     A.    No.

7     Q.    Who does Graham Cooley report to, if you know?

8     A.    It would be Jane O'Callaghan.

9     Q.    Okay.

10    A.    I don't think I'm on any of these emails.

11    Q.    You were in the group email from Avril. Is that  
12           right?

13    A.    Yeah, the daily receivable report, but anything  
14           above that appears to be -- was emails between  
15           Avril and Graham.

16    Q.    Let's keep going because I think I'll refresh your  
17           recollection on that.

18           MR. ALEXANDER: Can I get the Bates number of  
19           this document?

20           MR. HOSENPUDE: Yes. Let me scroll to the  
21           right. I'll go back up because I may have missed  
22           one.

23           MR. ALEXANDER: 021321.

24           MR. HOSENPUDE: 0211321. Correct.

25           MR. ALEXANDER:: Thanks.

1 Q. BY MR. HOSENPUDE: All right. I'm going to go back  
2 so we can read the text.

3 So this is Graham to Avril on May 6, 2020, and  
4 then above that is Avril back to Graham on May 6,  
5 2020, contracts is cc'd, so at that point, you  
6 would be in the chain. Correct?

7 A. Looks like it, yeah.

8 Q. And then the next email is Graham to contracts and  
9 Avril, saying, thanks. This should be everything  
10 for now.

11 The information is blacked out. And then you  
12 respond on May 6, 2020, at 11:45, "Thanks Graham –  
13 I chased both airlines again this morning but I  
14 didn't hear anything back, I will keep at them."  
15 Did I read that accurately?

16 A. Yeah, that's what the document says.

17 Q. And so you were communicating reminder notices to  
18 other airlines in May 2020, weren't you?

19 A. I must have been. That's what the document says.

20 Q. All right.

21 A. But for the record, I do not recall that.

22 Q. Understood. But you don't deny that that's your  
23 email, do you?

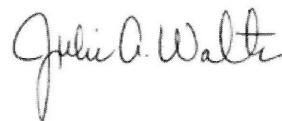
24 A. My name. It's from my email address.

25 Q. Okay. You just don't have a present recollection,

1 C E R T I F I C A T E  
2

3 I, Julie A. Walter, CSR No. 90-0173, do hereby  
4 certify that MICHAEL MCINERNEY appeared before me  
5 at the time and place mentioned in the caption  
6 herein; that the witness was by me first duly sworn  
7 on oath and examined upon oral interrogatories  
8 propounded by counsel; that said examination  
9 together with the testimony of said witness was  
10 taken down by me in stenotype and thereafter  
11 reduced to typewriting; and that the foregoing  
12 transcript, Pages 1 to 136, both inclusive,  
13 constitutes a full, true and accurate record of  
14 said examination of and testimony given by said  
15 witness and of all other proceedings had during the  
16 taking of said deposition, and of the whole  
17 thereof, to the best of my ability.

18 Witness my hand at Portland, Oregon, this 24th  
19 day of March, 2022.

20  
21 

22 Julie A. Walter  
23 CSR No. 90-0173  
24  
25